

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**



Ex parte STEVE J. MCKINNON and TA-MING CHEN

Application No. 10/034,431

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on December 19, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Appeal Brief filed March 14, 2006, is defective because the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41/37 (c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to

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each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

In addition, Information Disclosure Statements (IDSs) were filed on February 10, 2004, March 4, 2004, June 8, 2004, September 21, 2004, and February 14, 2005. It is not apparent from the record that the examiner properly considered the IDSs submitted nor notified appellants of why the submissions did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

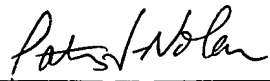
Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief of March 16, 2006 defective;
- 2) for the applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief and, if necessary, vacate the Examiner's Answer mailed June 16, 2006 and issue a revised Examiner's Answer;
- 4) for the examiner to consider the above mentioned IDSs
- 5) for the examiner to give written notification to appellants regarding the results of the examiner's consideration; and
- 6) for such further action as may be appropriate.

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